

REMARKS

Claims 1-4 and 5-10 are pending.

The Examiner is thanked for withdrawing all rejections and all objections other than those for alleged obviousness under 35 USC 103. For reasons which appear more fully below the claimed invention is not obvious in view of the cited references.

Additional claims are being submitted concurrently herewith. Since these claims may raise new issues, a Request for Continued Examination (RCE) is being filed concurrently with this amendment. This RCE is being filed in order to have full examination of these newly added claims. If all pending claims are not allowed, then any office action rejection any of the newly added claims should not be a final office action. In this manner all rights to amend the newly submitted claims will be preserved.

Issues under 35 U.S.C. § 103

The rejection of claims 1 and 3-5 as obvious over United States Patent 6,048,404 (White) in view of United States Patent 5,437,201 (Krueger) and United States Patent 5,863,789 (Komatsu) is again traversed for reasons of record. White, Krueger, and Komatsu all relate to the prior art headspace method and do not render obvious the claimed invention.

The claimed invention differs from White as explained on the record and for the additional reason that White does not disclose "a canister depressurized in advance" as required by pending claim 3, line 7. The other cited references provide no motivation to the skilled artisan to modify the disclosure of White to add this structure not disclosed in White.

Newly added claim 6 distinguishes over White in several respects. White discloses neither step IV nor step V of claim 6. White does not disclose any sub-atmospheric pressure as required by step IV. White does not disclose the step of providing a fluid connection between the interior of any canister and the interior of the sample vessel as required by step V. White does not disclose what is here claimed. It would not be obvious, in view of the secondary references, to modify White to add to White the steps and limitation missing in White. The claimed invention is not obvious in view of White and any other cited reference.

It would not be obvious to the skilled artisan in the sense of 35 U.S.C. § 103 to modify any one or all of the cited prior art in order to arrive at the claimed invention.

Conclusions

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully

requested to contact David R. Murphy (Reg. 22,751) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: Kurt L. Rupert #45702
for Gerald M. Murphy, Jr., 28,977

GMM/DRM/drm
1131-0486P

P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000